

House File 754

H-1168

1 Amend House File 754 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. Section 84A.5, subsection 4, Code 2021, is
5 amended to read as follows:

6 4. The division of labor services is responsible for the
7 administration of the laws of this state under [chapters 88,](#)
8 [88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 91F, 92,](#)
9 [and 94A,](#) and [sections 73A.21 and 85.68.](#) The executive head of
10 the division is the labor commissioner, appointed pursuant to
11 section 91.2.

12 Sec. 2. Section 91.4, subsection 2, Code 2021, is amended
13 to read as follows:

14 2. The director of the department of workforce development,
15 in consultation with the labor commissioner, shall, at the
16 time provided by law, make an annual report to the governor
17 setting forth in appropriate form the business and expense of
18 the division of labor services for the preceding year, the
19 number of remedial actions taken under [chapter 89A,](#) the number
20 of disputes or violations processed by the division and the
21 disposition of the disputes or violations, and other matters
22 pertaining to the division which are of public interest,
23 together with recommendations for change or amendment of the
24 laws in [this chapter](#) and [chapters 88, 88A, 88B, 89, 89A, 89B,](#)
25 [90A, 91A, 91C, 91D, 91E, 91F, 92, and 94A,](#) and [section 85.68,](#)
26 and the recommendations, if any, shall be transmitted by the
27 governor to the first general assembly in session after the
28 report is filed.

29 Sec. 3. NEW SECTION. **91F.1 Meal and rest periods —**
30 **requirements.**

31 1. As used in this chapter, unless the context otherwise
32 requires:

33 a. "Commissioner" means the labor commissioner appointed
34 pursuant to section 91.2.

35 b. "Employee" means a natural person who is employed in this

1 state for wages by an employer.

2 *c.* "Employer" means a person, as defined in section 4.1,
3 who in this state employs for wages a natural person. An
4 employer does not include a client, patient, customer, or
5 other person who obtains professional services from a licensed
6 person providing the services on a fee service basis or as an
7 independent contractor.

8 2. An employer shall provide an employee with appropriate
9 meal periods and appropriate rest periods.

10 *a.* An appropriate meal period shall be a period of not less
11 than thirty minutes during an employee's work period in which
12 an employee works at least seven hours. The meal period shall
13 be taken between the second and fifth hours. If an employee
14 works more than seven hours, the meal period shall be taken
15 between the third and sixth hours.

16 *b.* An appropriate rest period shall be a paid period of
17 not less than ten minutes during every consecutive four-hour
18 period of work taken by an employee approximately in the middle
19 of each four-hour period. The rest period is in addition to a
20 meal period, if applicable, and shall not be added to a meal
21 period or deducted from the work period to reduce the overall
22 length of the total work period.

23 3. An employer is not required to pay for a meal period
24 if an employee is free from work duties during the employee's
25 entire meal period. An employee shall be paid for the meal
26 period if any of the following occur:

27 *a.* The employee is required or allowed to remain on duty.

28 *b.* The employee is required to be on-call at the work
29 premises or designated worksite in order to be available to
30 return to duty even if the employee is not called back to duty.

31 *c.* The employee is called back to duty during the employee's
32 meal period even though the employee is not usually on-call
33 during the meal period.

34 **Sec. 4. NEW SECTION. 91F.2 Meal and rest periods —**
35 **exemptions.**

1 1. Meal and rest period requirements may be modified by the
2 terms of a collective bargaining agreement if the collective
3 bargaining agreement entered into by the employees prescribes
4 specific terms concerning meal periods and rest periods.

5 2. Meal and rest period requirements apply to hourly paid
6 and salary-paid employees. Management or employees involved
7 in agricultural jobs are not required to have breaks or meal
8 breaks. For the purposes of this section, agricultural jobs do
9 not include work in the production of seed, limited to removal
10 of off-type plants and corn tassels and hand-pollinating during
11 the months of June, July, and August by persons ages fourteen
12 and older.

13 3. Meal period requirements may be waived if an employer
14 shows that the ordinary nature and circumstance of the work
15 prevented the employer from establishing and maintaining a
16 regularly scheduled meal period. The factors that may be
17 considered regarding the waiver of the requirements are limited
18 to the following:

- 19 a. The safety and health needs of employees, patients,
20 clients, and the public.
- 21 b. The lack of other employees available to provide relief
22 to an employee.
- 23 c. The cost involved in shutdown and startup of machinery in
24 continuous operation of the industrial process.
- 25 d. The intermittent and unpredictable workflow not
26 controlled by the employer or employee.
- 27 e. Unforeseeable equipment failures, emergencies, or acts
28 of nature that require immediate and uninterrupted attention
29 by an employee.

30 **Sec. 5. NEW SECTION. 91F.3 Civil penalties.**

31 1. Any employer who violates the provisions of this chapter
32 or the rules adopted pursuant to this chapter is subject to a
33 civil penalty of not more than one hundred dollars for each
34 violation. The commissioner may recover the civil penalty
35 according to subsections 2 through 5. Any civil penalty

1 recovered shall be deposited in the general fund of the state.

2 2. The commissioner may propose that an employer be assessed
3 a civil penalty by serving the employer with notice of such
4 proposal in the same manner as an original notice is served
5 under the rules of civil procedure. Upon service of such
6 notice, the proposed assessment shall be treated as a contested
7 case under chapter 17A. However, to remain a contested case,
8 an employer must request a hearing within thirty days of being
9 served.

10 3. If an employer does not request a hearing pursuant
11 to subsection 2 or if the commissioner determines, after an
12 appropriate hearing, that an employer is in violation of this
13 chapter or the rules adopted pursuant to this chapter, the
14 commissioner shall assess a civil penalty which is consistent
15 with the provisions of subsection 1 and which is rendered with
16 due consideration for the penalty amount in terms of the size
17 of the employer's business, the gravity of the violation,
18 the good faith of the employer, and the history of previous
19 violations.

20 4. An employer may seek judicial review of any assessment
21 rendered under subsection 3 by instituting proceedings for
22 judicial review pursuant to chapter 17A. However, such
23 proceedings must be instituted in the district court of the
24 county in which the violation or one of the violations occurred
25 and within thirty days of the day on which the employer was
26 notified that an assessment has been rendered. Also, an
27 employer may be required, at the discretion of the district
28 court and upon instituting such proceedings, to deposit the
29 amount assessed with the clerk of the district court. Any
30 moneys so deposited shall either be returned to the employer
31 or be forwarded to the commissioner for deposit in the general
32 fund of the state, depending on the outcome of the judicial
33 review, including any appeal to the supreme court.

34 5. After the time for seeking judicial review has expired
35 or after all judicial review has been exhausted and the

1 commissioner's assessment has been upheld, the commissioner
2 shall request the attorney general to recover the assessed
3 penalties in a civil action.

4 Sec. 6. NEW SECTION. 91F.4 Duties and authority of
5 commissioner.

6 1. The commissioner shall provide further exemptions from
7 the provisions in this chapter by rule when reasonable.

8 2. In order to carry out the purposes of this chapter, the
9 commissioner or the commissioner's designee, upon presenting
10 appropriate credentials to the employer or agent of the
11 employer, may do any of the following:

12 a. Inspect employment records relating to meal and rest
13 periods for employees.

14 b. Interview an employer or employee or an agent of
15 the employer or employee, during working hours or at other
16 reasonable times.

17 3. The commissioner shall adopt rules pursuant to chapter
18 17A to administer this chapter.>

19 2. Title page, by striking lines 1 and 2 and inserting <An
20 Act requiring employers to provide employees with meal periods
21 and rest periods and providing penalties.>

HUNTER of Polk